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ABSTRACT

This paper reports on the protracted history of the Arkansas school-finance case, the longest-running school-finance lawsuit in the United States. It details in chronological sequence the lawsuit filed in 1992 by the Lakeview School District, a very small all African-American school district alleging that the state school-finance plan was unconstitutional. In 1994, the Chancery Court found that the state plan violated the educational and equal protection sections of the Arkansas Constitution and gave the state 2 years to "enact and implement appropriate legislation in conformity with... [this]... opinion." The school-finance law was found to fail on the basis of both equity and efficiency, and the state was ordered to develop a new system. Since, 1995, different governors, a slow-moving judge, and a second suit accusing the state of inadequacy have further complicated and delayed the original decision. (DFR)

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A paper delivered at the American Education Finance Association

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The Arkansas School Finance Case: Is It Over Yet?

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The State of Arkansas can surely lay claim to the longest running school finance case in the Nation. It was filed in 1992 by a tiny, all African-American school district called Lake View. They have so far been through three defendant governors, Clinton, Tucker, and Huckabee. It has had hearings before two Chancery Judges and the State Supreme Court, where it will probably go again. It has crossed two decades, two millennia, and gives every sign of continued existence. The delays can be credited to a slowly moving judge and the executive administration of the state. One example would be the request for no fewer than nine delays in recent years.

It is remarkable that office holders who claim to uphold family values can be so lax when it comes to our children.

To demonstrate the case's murky history we shall, in the words of the late New York Governor Al Smith, look at the record.

1992: The case was filed as *Lake View v. Clinton*.

1993: The case became *Lake View v Tucker*.

1994: The case is heard in Pulaski County (Little Rock) in Chancery Court. The action lasted one week in September. The judge rendered her decision in November. She found that the school finance plan violated the education and equal protection sections of the Arkansas Constitution. ".....the Court finds that the Arkansas school funding system is unconstitutional under Article II, sub-sections 2, 3, 18 and Article XIV section 1 of the Arkansas Constitution; and the Court hereby stays the effect of this decision for two years to give the State of Arkansas time to enact and implement appropriate legislation in conformity with this opinion."

The Arkansas Constitution calls for all children to be given a "general, suitable, and efficient" education. To reach the conclusion that it did not provide this, the judge seemed to rely on two basic lines of thought.

First, statistical measures of equity, and second, definitions of the term efficient.

Three statistical measures were presented at the original hearing. These were the Federal Range Ratio (Restricted Range), the Coefficient of Variations, and the Gini Coefficient.

At the time the values of these measures are as follows:

Federal Range Ratio	73.4
Coefficient of Variation	.1188
Gini Coefficient	.052

Since the Federal Range Ratio showed the most inequity, the judge concentrated on it. She made a lengthy discussion of, it pointing out that it was an official definition by the Federal Government. In addition its definition of equity was a .25 difference between the

fifth and ninety-fifth percentile in a ranked listing of school districts. Thus a differential of .734 was almost three times the size of the defined ratio.

"In calculating the federal range ratio, the Court utilized the information provided at trial which, except for the year 1992-93, was provided in terms of ADA/ADM instead of WADM. The Court feels that a comparison in terms of ADA/ADM is appropriate due to the fact that the trial court in *Dupree v Alma* computed the federal range ratio in terms of ADA/ADM. The Court notes that the federal range ratio should be analyzed in terms of WADM in any future evaluation of the Arkansas school funding system.", wrote Judge Imber.

She found the Coefficient of Variation to show inequity but accepted a defense definition of a "threshold" for the Gini Coefficient, which does not seem to have one. It seems the judge was caused to err but she found the other two to demonstrate inequity.

The second major consideration the judge seemed to stress was the matter of efficiency. "While Arkansas has not defined the terms 'general, suitable and efficient', courts in other states have defined these terms. In *Rose v Council for Better Educ., Inc.*, the Court defined 'efficient' as a system which required 'substantial uniformity, substantial equality of financial resources and substantial equal educational opportunity for all students' and which required that the educational system be 'adequate, uniform and unitary. The court concluded that an 'efficient system of common schools should have several elements:

1. The system is the sole responsibility of the General Assembly.
2. The tax effort should be evenly spread.
3. The system must provide the necessary resources throughout the state—they must be uniform.

4. The system must provide an adequate education.
5. The system must be properly managed."

Therefore the existing school finance law failed on the bases of both equity and efficiency. The judge's order further admonished the state to develop a new system incorporating her suggestions.

1995: to start, much activity was undertaken without much coordination. The situation best resembled Stephen Leacock's horseman who rode off in all directions. The disjointed actions were those of the Governor, the Legislature, and the state's Attorney General.

Governor Tucker said that he had a plan to solve the whole problem. However he only released parts of it on a weekly basis. Included in his releases were at least two proposals for large consolidation of school districts. This ignited pangs of fear in the hearts of school superintendents and rural educators. In fact little of his ideas saw inclusion in the final bill.

He did make one real contribution to the case by ordering the State Department of Education not to publish any more yearly statistical reports on the Arkansas schools, as they only helped the plaintiffs.

The Legislature seemed most fascinated with the Federal Range Ratio than any other part of the judge's decisions. For example she told them to report expenditures as amount per WADM, one of the things to disappear from the new bill were weights, and hence no WADM. This made Arkansas the only state not providing added funds for exceptional children.

What was designed was a rather convoluted formula to provide equal dollars per pupil, but they settled for claiming that the Federal Range Ratio was met.

To implement such a situation they proposed a constitutional amendment which: (1) claimed to provide a "quality education", (2) required a 25 mill tax on all district property for, and only for, maintenance and operation (M &O).

To further tangle the situation, the state appealed the 1994 decision to the Supreme Court. That court refused to hear the appeal saying that the 1996 Chancery hearing would settle the matter.

1996: In the November election the voters adopted Amendment 74, which called for the mandatory 25 mills. More important to the case was that the trial judge was elected to the state Supreme Court. She announced that she only had a short period for the compliance hearing. The state then claimed that they would require several weeks to present their case. Therefore, the case was turned over to another chancery judge. A hearing was scheduled for 1997.

To keep the confusion going, the Governor was forced from office and was replaced by the Lieutenant Governor who did not seem to have much familiarity with the case nor any plans of his own.

1997: Two events took place. First the Legislature tinkered with the new law, but made none of the changes, which would have satisfied the original judge's orders.

Second, a hearing was held consisting only of the lawyers on both sides. They were told by the judge to reach an agreement.

1998: The contending parties reached an agreement and presented it to the judge. He would not accept it and then threw the case out of court because the new finance law had corrected all of the problems.

The plaintiffs then filed a second suit accusing the state school system of inadequacy. This suit became known as Lake View II.

1999: The Lake View I case was appealed to the state Supreme Court for the second time.

The Legislature again tinkered with the finance law without bringing it in compliance with the original judge's order nor made any essential changes.

2000: On March 2nd the state Supreme Court in a 6-1 vote found in favor of the plaintiffs. They ordered the Chancery Judge to hold a hearing on the case and the payment of legal fees.

The judge then sprang into action and postponed the hearing until September. During the summer he added the matter of adequacy to the hearing and gave the state the responsibility of proving the new formula to be constitutional.

The plaintiffs dropped the case for Lake View II.

September arrived and seemed to spawn an industry of legal involvement. No fewer than seventeen lawyers crowded the courtroom. A few additional ones had tried to be among the chosen but had been denied the opportunity to intervene in the case. The state presented witnesses who claimed that the new school aid system was indeed equalizing. They then questioned the veracity of the figures compiled by the State Department of Education.

The plaintiffs then presented witnesses, including the retired Associate Commissioner for Finance of the State Department, who testified that the inequity of 1998-99 surpassed that

of 1992-93. (The data for 1992-93 had been used in the original hearing in 1994.) To compare the two sets of statistics yields the following results:

Measure	1992-93	1998-99
Federal Range Ratio	73.4%	75.35%
Coefficient of Variation	.1188	.1423
Gini Coefficient	.052	.0733

Thus it seems obvious that the new formula not only did not cure inequity, but increased it.

The matter of adequacy produced two odd effects. First, those intervening produced a number of school superintendents spending less per student than Little Rock and claiming the system to be equitable. Second, it saw most of those intervening who originally supporting the state on equity change sides to support the plaintiffs regarding adequacy.

2001: At the close of the hearing the judge was forced to postpone the submission of finding of fact and of law because of bad weather and the dragging of feet by the state. It was finally submitted in late February. No decision has been made. The Legislature has been quite upset because it meets on odd numbered years for 60 days. Without a decision before the time is up it must either extend the time or wait until there is a special session.

Mortimer Zuskerman, Editor and Chief of *U.S. News & World Report*, in the February 12, 2001 editorial wrote, "Some argue that money doesn't seem to correlate very well with educational success. One New Jersey judge responded to this fact as follows, 'If money is inadequate to improve education, the residents of poor districts should at least have an equal opportunity to be disappointed by its failure'".

There is an oft quoted legal maxim which states that justice delayed is justice denied -
this time the victims are our children.